

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

KENNEDY-CLARK, BRUCE

(b) County of Residence of First Listed Plaintiff Philadelphia

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

LAW OFFICES OF PATRICK G. GECKLE, LLC, 1500 J.F.K. Blvd.,
Ste. 1850, Phila. PA 19102 - 215-735-3326**DEFENDANTS**

CITY OF PHILADELPHIA

County of Residence of First Listed Defendant Philadelphia

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

- | | | | | | |
|---|--|---|--|--|--|
| <input type="checkbox"/> 110 Insurance | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 362 Personal Injury - Med. Malpractice | <input type="checkbox"/> 610 Agriculture | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 365 Personal Injury - Product Liability | <input type="checkbox"/> 620 Other Food & Drug | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 820 Copyrights | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 330 Federal Employers' Liability | <input type="checkbox"/> 370 Other Fraud | <input type="checkbox"/> 630 Liquor Laws | <input type="checkbox"/> 830 Patent | <input type="checkbox"/> 450 Commerce |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 371 Truth in Lending | <input type="checkbox"/> 640 R.R. & Truck | <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 380 Other Personal Property Damage | <input type="checkbox"/> 650 Airline Regs. | <input type="checkbox"/> 861 HIA (1395ff) | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 660 Occupational Safety/Health | <input type="checkbox"/> 862 Black Lung (923) | <input type="checkbox"/> 480 Consumer Credit |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) | <input type="checkbox"/> 490 Cable/Sat TV |
| <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 360 Other Personal Injury | | | <input type="checkbox"/> 864 SSID Title XVI | <input type="checkbox"/> 810 Selective Service |
| <input type="checkbox"/> 190 Other Contract | | | | <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 850 Securities/Commodities/Exchange |
| <input type="checkbox"/> 195 Contract Product Liability | | | | | <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 |
| <input type="checkbox"/> 196 Franchise | | | | | <input type="checkbox"/> 890 Other Statutory Actions |
| <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 510 Motions to Vacate Sentence | <input type="checkbox"/> 710 Fair Labor Standards Act | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 891 Agricultural Acts |
| <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 530 General | <input type="checkbox"/> 720 Labor/Mgmt. Relations | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 892 Economic Stabilization Act |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 443 Housing/Accommodations | <input type="checkbox"/> 535 Death Penalty | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act | | <input type="checkbox"/> 893 Environmental Matters |
| <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 444 Welfare | <input type="checkbox"/> 540 Mandamus & Other | <input type="checkbox"/> 740 Railway Labor Act | | <input type="checkbox"/> 894 Energy Allocation Act |
| <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | <input type="checkbox"/> 550 Civil Rights | <input type="checkbox"/> 790 Other Labor Litigation | | <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 446 Amer. w/Disabilities - Other | <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | | <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice |
| | <input checked="" type="checkbox"/> 440 Other Civil Rights | | | | <input type="checkbox"/> 950 Constitutionality of State Statutes |

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. §1983

Brief description of cause:

Plaintiff was denied his constitutional and statutory rights.

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 200,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No**VIII. RELATED CASE(S)**

IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

Patrick G. Geckle, Esquire

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1615 North 62nd Street, Philadelphia, PA 19151

Address of Defendant: 1515 Arch Street, 14th Floor, One Parkway Bldg., Philadelphia, PA 19102-1595

Place of Accident, Incident or Transaction near the intersection of Lansdowne Avenue and Robbins Street, Philadelphia, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Patrick G. Geckle, Esquire, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 7/26/2013

Attorney-at-Law

26718

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 7/26/2013

Attorney-at-Law

26718

Attorney I.D.#

APPENDIX I

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

BRUCE KENNEDY-CLARK	:	CIVIL ACTION
	:	
v	:	
	:	
CITY OF PHILADELPHIA, et al.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

7/26/2013
Date

Patrick G. Geckle
Attorney-at-law

Bruce Kennedy-Clark
Attorney for Plaintiff

215-735-3326
Telephone

215-567-1998
FAX Number

pgeckle@pgglaw.com
E-Mail Address

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BRUCE KENNEDY-CLARK :
1615 North 62nd Street :
Philadelphia, PA 19151 :
:
VS. :
:
CITY OF PHILADELPHIA : Civil Action No.
c/o City of Philadelphia Law Department :
Claims Unit, One Parkway Building :
1515 Arch Street, 14th Floor :
Philadelphia, PA 19102-1595 :
and : JURY TRIAL DEMANDED
LIEUTENANT PATRICK KELLY :
BADGE NUMBER 145 :
Individually and as a police officer :
for the City of Philadelphia :
c/o City of Philadelphia Law Department :
Claims Unit, One Parkway Building :
1515 Arch Street, 14th Floor :
Philadelphia, PA 19102-1595 :
and :
POLICE OFFICER MARK RANSOM :
BADGE NUMBER 3542 :
Individually and as a police officer :
for the City of Philadelphia :
c/o City of Philadelphia Law Department :
Claims Unit, One Parkway Building :
1515 Arch Street, 14th Floor :
Philadelphia, PA 19102-1595 :
and :
POLICE OFFICER RICHARD GREEN :
BADGE NUMBER 2383 :
Individually and as a police officer :
for the City of Philadelphia :
c/o City of Philadelphia Law Department :
Claims Unit, One Parkway Building :
1515 Arch Street, 14th Floor :
Philadelphia, PA 19102-1595 :
and :
SERGEANT WILLIAMS :
BADGE NUMBER :
Individually and as a police officer :
for the City of Philadelphia :
c/o City of Philadelphia Law Department :
Claims Unit, One Parkway Building : Attorney ID# 26718
1515 Arch Street, 14th Floor :
Philadelphia, PA 19102-1595 :

and :
POLICE OFFICER RYAN :
BADGE NUMBER 7329 :
Individually and as a police officer :
for the City of Philadelphia :
c/o City of Philadelphia Law Department :
Claims Unit, One Parkway Building :
1515 Arch Street, 14th Floor :
Philadelphia, PA 19102-1595 :
and :
POLICE OFFICER FAHY :
BADGE NUMBER 3197 :
Individually and as a police officer :
for the City of Philadelphia :
c/o City of Philadelphia Law Department :
Claims Unit, One Parkway Building :
1515 Arch Street, 14th Floor :
Philadelphia, PA 19102-1595 :
and :
POLICE OFFICER RANSOM :
BADGE NUMBER 3527 :
Individually and as a police officer :
for the City of Philadelphia :
c/o City of Philadelphia Law Department :
Claims Unit, One Parkway Building :
1515 Arch Street, 14th Floor :
Philadelphia, PA 19102-1595 :
and :
POLICE OFFICER GREEN :
BADGE NUMBER 3211 :
Individually and as a police officer :
for the City of Philadelphia :
c/o City of Philadelphia Law Department :
Claims Unit, One Parkway Building :
1515 Arch Street, 14th Floor :
Philadelphia, PA 19102-1595 :
and :
POLICE OFFICER OAKES :
BADGE NUMBER 3496 :
Individually and as a police officer :
for the City of Philadelphia :
c/o City of Philadelphia Law Department :
Claims Unit, One Parkway Building :
1515 Arch Street, 14th Floor :
Philadelphia, PA 19102-1595 :
and :

POLICE OFFICER KOSTICK :
 BADGE NUMBER 3353 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :
 POLICE OFFICER HOWE :
 BADGE NUMBER 3285 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :
 POLICE OFFICER KOCHMER :
 BADGE NUMBER 5437 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :
 POLICE OFFICER FARLEY :
 BADGE NUMBER 4716 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :
 POLICE OFFICER SALLONE :
 BADGE NUMBER :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :

POLICE OFFICER WASHINGTON :
 BADGE NUMBER :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :
 POLICE OFFICER SMERKER :
 BADGE NUMBER 2422 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :
 POLICE OFFICER BURTON :
 BADGE NUMBER 7005 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :
 POLICE OFFICER FORD :
 BADGE NUMBER 6805 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :
 POLICE OFFICER SMALL :
 BADGE NUMBER 4825 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :

POLICE OFFICER TUMOLO :
 BADGE NUMBER 2526 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :
 POLICE OFFICER DALESIO :
 BADGE NUMBER 1521 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :
 and :
 POLICE OFFICER LEONARD :
 BADGE NUMBER 5409 :
 Individually and as a police officer :
 for the City of Philadelphia :
 c/o City of Philadelphia Law Department :
 Claims Unit, One Parkway Building :
 1515 Arch Street, 14th Floor :
 Philadelphia, PA 19102-1595 :

COMPLAINT

Jurisdiction

1. This action is brought pursuant to 42 U.S.C. §1983. Jurisdiction is based upon 28 U.S.C. §§1331 and 1343 (1), (3), (4) and the aforementioned statutory provision. Plaintiff further invokes the supplemental jurisdiction of this Court pursuant to 28 U.S.C. §1367(a) to hear and adjudicate state law claims.

Parties

2. Plaintiff, Bruce Kennedy-Clark, is a resident of the Commonwealth of Pennsylvania, and at all times relevant to this

action was present in Philadelphia, Pennsylvania.

3. Defendant, City of Philadelphia, is a municipality of the Commonwealth of Pennsylvania and owns, operates, manages, directs and controls the Philadelphia Police Department which employs Defendants, Patrick Kelly, Mark Ransom, Richard Green, Williams, Ryan, Fahy, Ransom, Green, Oakes, Kostick, Howe, Kochmer, Farley, Sallone, Washington, Smerker, Burton, Ford, Small, Tumolo, Dalesio, and Leonard.

4. Defendant, Lieutenant Patrick Kelly, Badge Number 145, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

5. Defendant, Police Officer Mark Ransom, Badge Number 3542, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

6. Defendant, Police Officer Richard Green, Badge Number 2383, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

7. Defendant, Sergeant Williams, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

8. Defendant, Police Officer Ryan, Badge Number 7329, is a

police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

9. Defendant, Police Officer Fahy, Badge Number 3197, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

10. Defendant, Police Officer Ransom, Badge Number 3527, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

11. Defendant, Police Officer Green, Badge Number 3211, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

12. Defendant, Police Officer Oakes, Badge Number 3496, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

13. Defendant, Police Officer Kostick, Badge Number 3353, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

14. Defendant, Police Officer Howe, Badge Number 3285, is a

police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

15. Defendant, Police Officer Kochmer, Badge Number 5437, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

16. Defendant, Police Officer Farley, Badge Number 4716, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

17. Defendant, Police Officer Sallone, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

18. Defendant, Police Officer Washington, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

19. Defendant, Police Officer Smerker, Badge Number 2422, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

20. Defendant, Police Officer Burton, Badge Number 7005, is

a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

21. Defendant, Police Officer Ford, Badge Number 6805, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

22. Defendant, Police Officer Small, Badge Number 4825, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

23. Defendant, Police Officer Tumolo, Badge Number 2526, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

24. Defendant, Police Officer Dalesio, Badge Number 1521, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

25. Defendant, Police Officer Leonard, Badge Number 5409, is a police officer for the Philadelphia Police Department acting under color of state law. He is being sued in his individual and official capacity.

26. At all relevant times, all Defendants were acting in

concert and conspiracy and their actions deprived Plaintiff, Bruce Kennedy-Clark, of his constitutional and statutory rights as hereinafter described.

Factual Allegations

27. On or about July 29, 2011, at approximately 9:30 p.m., Plaintiff, Bruce Kennedy-Clark, was near the intersection of Lansdowne Avenue and Robbins Street, in the City of Philadelphia. He observed a number of marked Philadelphia police cars drive by and then suddenly make a U-turn. A police officer appeared to be looking for an individual who was standing in the area.

28. Plaintiff went into a store to buy a soda. When he walked out of the store, he heard people screaming. He observed four police officers beating an individual with their batons. Plaintiff got his cell phone out and called 911 and asked for a sergeant to come to the scene.

29. After calling 911, Plaintiff began to record the police beating the other young man with his cell phone. Plaintiff was then approached by Defendant, Lieutenant Patrick Kelly, and the other Defendant Philadelphia police officers.

30. The Defendant Philadelphia police officers including Lieutenant Kelly surrounded the Plaintiff. One of the Defendant police officers pushed Plaintiff from behind. The police officer who pushed Plaintiff from behind asked Plaintiff if he wanted to fight. Plaintiff responded "Why would I fight you? You've got

your friends and all those sticks."

31. Defendant, Lieutenant Kelly, then told Plaintiff to "shut the f _ _ _ _ up and go home." However, at this point, Plaintiff was surrounded by approximately eight (8) of the Defendant police officers. Plaintiff told Lieutenant Kelly "I'm trying to go home but your not letting me." At that point, Lieutenant Kelly said to the other Defendant officers "Go get him."

32. Suddenly Plaintiff was attacked by several police officers. He was punched by a police officer who then turned him around and slammed him face first onto the hood of a van while simultaneously knocking his cell phone out of his hand. While he was being held on the van, several officers were holding him down. While being held down, one of the Defendant officers began to strike him with a baton in this testicles.

33. At all times relevant hereto, Defendant, Lieutenant Kelly, was acting in a supervisory role and, at all times relevant hereto, had actually knowledge of and acquiesced in the conduct of the other Defendant police officers.

34. At all times relevant hereto, Defendant, Lieutenant Kelly, had a reasonable opportunity to intervene and stop the other Defendant police officers from using excessive and unnecessary force on the Plaintiff.

35. At all times relevant hereto, all of the Defendant

police officers had a reasonable opportunity to intervene and stop the Plaintiff from being beaten and subjected to excessive and unnecessary force.

36. After Plaintiff was viciously beaten by the Defendant police officers, he was handcuffed and searched. In addition, Defendant, Police Officer Richard Green, Badge Number 2383, confiscated Plaintiff's cell phone and put it into his pocket.

37. After Plaintiff was placed in handcuffs, one of the Defendant police officers took his hands and forced them up his back towards his neck causing injuries to his shoulder.

38. At no time did Plaintiff commit any act which could be considered a violation of any law of the Commonwealth of Pennsylvania nor did he do anything of an aggressive nature or which could have been considered threatening to any of the Defendant Philadelphia police officers or to anyone else.

39. After Plaintiff was seized by Defendant, Police Officer Ransom, and Defendant, Police Officer Richard Green, he was taken to the police station where Defendants, Police Officers Ransom and Richard Green, caused him to be charged with the crime of disorderly conduct. That criminal charge was dismissed by Judge Kenneth Powell on October 28, 2011.

40. The false arrest, search and seizure, and use of unreasonable and excessive force is part of Defendants' pattern, practice and custom of subjecting citizens such as Plaintiff,

Bruce Kennedy-Clark, to unreasonable and excessive force, false arrest, search and seizure, and malicious prosecution in the absence of probable cause.

41. The conduct of all of the Defendant police officers as outlined above was done willfully, deliberately, maliciously, wantonly, recklessly and with an intent to injure the Plaintiff and with the intent to violate Plaintiff Bruce Kennedy-Clark's constitutional and statutory rights.

42. As a direct and proximate result of the actions of all Defendants herein, Plaintiff, Bruce Kennedy-Clark, suffered and continues to suffer physical and psychological harm, pain and suffering, some or all of which may be permanent.

43. Defendants engaged in the aforesaid conduct for the purpose of violating Bruce Kennedy-Clark's constitutional rights by subjecting him to unreasonable and excessive force, false arrest, search and seizure, and malicious prosecution.

**FIRST CAUSE OF ACTION
FEDERAL CIVIL RIGHTS VIOLATIONS**

44. Plaintiff, Bruce Kennedy-Clark, incorporates by reference paragraphs 1 through 43 of the instant Complaint.

45. As a direct and proximate result of all Defendants' conduct, committed under color of state law, Plaintiff, Bruce Kennedy-Clark, was deprived of his right to be free from unreasonable and excessive force, an unlawful search and seizure, false arrest, malicious prosecution, unlawful taking of his cell

phone and violation of his constitutional right to record the police officers as they performed their public and official duties, to be secure in his person and property and to due process of law. As a result, Plaintiff, Bruce Kennedy-Clark, suffered and continues to suffer harm in violation of his rights under the laws and Constitution of the United States, in particular, the First, Fourth and Fourteenth Amendments thereof, and 42 U.S.C. §1983.

46. As a direct and proximate result of the acts of all Defendants, Plaintiff, Bruce Kennedy-Clark, sustained physical injuries, emotional harm, loss of liberty and financial losses, all to his detriment and harm.

47. Defendant, City of Philadelphia, has encouraged, tolerated, ratified and has been deliberately indifferent to the following patterns, practices and customs and to the need for more or different training, supervision, investigation or discipline in the areas of:

- a. The use of unreasonable force, excessive force, search and seizure, and false arrest by police officers;
- b. The proper exercise of police powers, including but not limited to the unreasonable use of force, the excessive use of force, search and seizure, false arrest, malicious

prosecutions, and violations of citizens' free speech rights, particularly in connection with perceived challenges to police authority;

- c. The monitoring of officers whom it knew or should have known were suffering from emotional and/or psychological problems that impaired their ability to function as officers;
- d. The failure to identify and take remedial or disciplinary action against police officers who were the subject of prior civilian or internal complaints of misconduct;
- e. Police officers' use of their status as police officers to employ the use of unreasonable and excessive force, search and seizure, and false arrest, or to achieve ends not reasonably related to their police duties; and
- f. The failure of police officers to follow established policies, procedures, directives and instructions regarding the use of force and arrest powers under such circumstances as presented herein.

48. The City of Philadelphia failed to properly sanction or discipline officers, who are aware of and conceal and/or aid and

abet violations of constitutional rights of citizens by other Philadelphia police officers, thereby causing and encouraging Philadelphia police, including the Defendant officers in this case, to violate the rights of citizens such as Plaintiff, Bruce Kennedy-Clark.

49. Defendants have by the above described actions deprived Plaintiff, Bruce Kennedy-Clark, of rights secured by the First, Fourth and Fourteenth Amendments to the United States Constitution in violation of 42 U.S.C. §1983.

**SECOND CAUSE OF ACTION
SUPPLEMENTAL STATE CLAIMS**

50. Plaintiff, Bruce Kennedy-Clark, incorporates by reference paragraphs 1 through 49 of the instant Complaint.

51. The acts and conduct of the Defendants in this cause of action constitute assault, battery, false arrest, malicious prosecution, and intentional infliction of emotional distress under the laws of the Commonwealth of Pennsylvania, and this Court has supplemental jurisdiction to hear and adjudicate this claims.


WHEREFORE, Plaintiff, Bruce Kennedy-Clark, requests the following relief:

- a. Compensatory damages;
- b. Punitive damages;
- c. Reasonable attorney's fees and costs;
- d. Such other and further relief as appears

reasonable and just; and

- e. A jury trial as to each Defendant and as to each count.

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